

REMARKS

In response to the Office Action mailed March 20, 2007, Applicants have amended claims 39 to remove reference to a tradename. The specification has been amended to capitalize trademarks and add trademark symbols where appropriate. Every effort has been made to prevent the use of trademarks in any manner which might adversely affect their validity as trademarks. Applicants have also amended the specification to correct an inadvertent error in reference to SEQ ID NOs:452-455. Applicants submit that the skilled artisan would readily recognize the existence of the error in the specification upon review of the sequences provided in the sequence listing as filed and further would recognize this amendment as the appropriate correction. Accordingly, this amendment does not constitute new matter (see MPEP 2163.07II). The above amendments are not to be construed as acquiescence with regard to the Examiner's rejections and are made without prejudice to prosecution of any subject matter removed or modified by this amendment in a related divisional, continuation or continuation-in-part application. Following the amendments, claims 34-39 are pending and under consideration in the application. Favorable reconsideration of the subject application is respectfully requested in view of the above amendments and the following remarks.

Supplemental Application Data Sheet (ADS)

Applicants submit herewith a supplemental ADS truncating the priority claim to the US Application No. 09/938,864 filed August 24, 2001.

Use of Trademarks in the Specification

The specification is objected to for the use of trademarks that are not in the proper format.

Applicants have amended the specification where appropriate to capitalize trademark names and include the trademark symbol where appropriate. Applicants submit that every effort has been made to prevent the use of trademarks in any manner which might adversely affect their validity as trademarks.

Listings of Pending/Withdrawn Claims

The pending claims listed on the cover sheet of the Action are claims 34-39. Further, paragraph 4 of the Action states that these same claims are under consideration. However, Applicants note that paragraph 2 of the Action indicates that claims 1-9, 26-30, 32 and 33 are withdrawn from further consideration as being drawn to nonelected inventions. Applicants note that claims 1-33 were canceled as of Applicants' amendment filed September 1, 2006.

Provisional Rejection Under Obviousness-Type Double Patenting

Claims 34-39 stand provisionally rejected under the judicially created doctrine of obviousness-type double patenting over claims 11, 15-17, 21, 22, 24 and 25 of copending Application No. 10/427,717.

Without acquiescing to the ground of rejection, Applicants submit herewith an executed Terminal Disclaimer thereby obviating this ground for rejection.

In view of the above amendments and remarks, Applicants respectfully submit that all of the claims remaining in the application are now believed to be in condition for allowance. Favorable consideration and a Notice of Allowance are earnestly solicited.

Application No. 10/648,780
Reply to Office Action dated March 20, 2007

The Director is authorized to charge any additional fees due by way of this Amendment, or credit any overpayment, to our Deposit Account No. 19-1090.

Respectfully submitted,
SEED Intellectual Property Law Group PLLC

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Enclosure:
Terminal Disclaimer

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